



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB1560

Introduced 1/31/2023, by Rep. Blaine Wilhour

SYNOPSIS AS INTRODUCED:

| | |
|---------------|---------------------------|
| 35 ILCS 405/2 | from Ch. 120, par. 405A-2 |
| 35 ILCS 405/3 | from Ch. 120, par. 405A-3 |
| 35 ILCS 405/4 | from Ch. 120, par. 405A-4 |

Amends the Illinois Estate and Generation-Skipping Transfer Tax Act. Provides that no tax shall be imposed under the Act for persons dying on or after the effective date or for transfers made on or after the effective date.

LRB103 05338 SPS 50357 b

1 AN ACT concerning revenue.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Estate and Generation-Skipping
5 Transfer Tax Act is amended by changing Sections 2, 3, and 4 as
6 follows:

7 (35 ILCS 405/2) (from Ch. 120, par. 405A-2)

8 Sec. 2. Definitions.

9 "Federal estate tax" means the tax due to the United
10 States with respect to a taxable transfer under Chapter 11 of
11 the Internal Revenue Code.

12 "Federal generation-skipping transfer tax" means the tax
13 due to the United States with respect to a taxable transfer
14 under Chapter 13 of the Internal Revenue Code.

15 "Federal return" means the federal estate tax return with
16 respect to the federal estate tax and means the federal
17 generation-skipping transfer tax return with respect to the
18 federal generation-skipping transfer tax.

19 "Federal transfer tax" means the federal estate tax or the
20 federal generation-skipping transfer tax.

21 "Illinois estate tax" means the tax due to this State with
22 respect to a taxable transfer.

23 "Illinois generation-skipping transfer tax" means the tax

1 due to this State with respect to a taxable transfer that gives
2 rise to a federal generation-skipping transfer tax.

3 "Illinois transfer tax" means the Illinois estate tax or
4 the Illinois generation-skipping transfer tax.

5 "Internal Revenue Code" means, unless otherwise provided,
6 the Internal Revenue Code of 1986, as amended from time to
7 time.

8 "Non-resident trust" means a trust that is not a resident
9 of this State for purposes of the Illinois Income Tax Act, as
10 amended from time to time.

11 "Person" means and includes any individual, trust, estate,
12 partnership, association, company or corporation.

13 "Qualified heir" means a qualified heir as defined in
14 Section 2032A(e) (1) of the Internal Revenue Code.

15 "Resident trust" means a trust that is a resident of this
16 State for purposes of the Illinois Income Tax Act, as amended
17 from time to time.

18 "State" means any state, territory or possession of the
19 United States and the District of Columbia.

20 "State tax credit" means:

21 (a) For persons dying on or after January 1, 2003 and
22 through December 31, 2005, an amount equal to the full credit
23 calculable under Section 2011 or Section 2604 of the Internal
24 Revenue Code as the credit would have been computed and
25 allowed under the Internal Revenue Code as in effect on
26 December 31, 2001, without the reduction in the State Death

1 Tax Credit as provided in Section 2011(b)(2) or the
2 termination of the State Death Tax Credit as provided in
3 Section 2011(f) as enacted by the Economic Growth and Tax
4 Relief Reconciliation Act of 2001, but recognizing the
5 increased applicable exclusion amount through December 31,
6 2005.

7 (b) For persons dying after December 31, 2005 and on or
8 before December 31, 2009, and for persons dying after December
9 31, 2010 and prior to the effective date of this amendatory Act
10 of the 103rd General Assembly, an amount equal to the full
11 credit calculable under Section 2011 or 2604 of the Internal
12 Revenue Code as the credit would have been computed and
13 allowed under the Internal Revenue Code as in effect on
14 December 31, 2001, without the reduction in the State Death
15 Tax Credit as provided in Section 2011(b)(2) or the
16 termination of the State Death Tax Credit as provided in
17 Section 2011(f) as enacted by the Economic Growth and Tax
18 Relief Reconciliation Act of 2001, but recognizing the
19 exclusion amount of only (i) \$2,000,000 for persons dying
20 prior to January 1, 2012, (ii) \$3,500,000 for persons dying on
21 or after January 1, 2012 and prior to January 1, 2013, and
22 (iii) \$4,000,000 for persons dying on or after January 1,
23 2013, and with reduction to the adjusted taxable estate for
24 any qualified terminable interest property election as defined
25 in subsection (b-1) of this Section.

26 (b-1) The person required to file the Illinois return may

1 elect on a timely filed Illinois return a marital deduction
2 for qualified terminable interest property under Section
3 2056(b)(7) of the Internal Revenue Code for purposes of the
4 Illinois estate tax that is separate and independent of any
5 qualified terminable interest property election for federal
6 estate tax purposes. For purposes of the Illinois estate tax,
7 the inclusion of property in the gross estate of a surviving
8 spouse is the same as under Section 2044 of the Internal
9 Revenue Code.

10 In the case of any trust for which a State or federal
11 qualified terminable interest property election is made, the
12 trustee may not retain non-income producing assets for more
13 than a reasonable amount of time without the consent of the
14 surviving spouse.

15 "Taxable transfer" means an event that gives rise to a
16 state tax credit, including any credit as a result of the
17 imposition of an additional tax under Section 2032A(c) of the
18 Internal Revenue Code.

19 "Transferee" means a transferee within the meaning of
20 Section 2603(a)(1) and Section 6901(h) of the Internal Revenue
21 Code.

22 "Transferred property" means:

23 (1) With respect to a taxable transfer occurring at
24 the death of an individual, the deceased individual's
25 gross estate as defined in Section 2031 of the Internal
26 Revenue Code.

1 (2) With respect to a taxable transfer occurring as a
2 result of a taxable termination as defined in Section
3 2612(a) of the Internal Revenue Code, the taxable amount
4 determined under Section 2622(a) of the Internal Revenue
5 Code.

6 (3) With respect to a taxable transfer occurring as a
7 result of a taxable distribution as defined in Section
8 2612(b) of the Internal Revenue Code, the taxable amount
9 determined under Section 2621(a) of the Internal Revenue
10 Code.

11 (4) With respect to an event which causes the
12 imposition of an additional estate tax under Section
13 2032A(c) of the Internal Revenue Code, the qualified real
14 property that was disposed of or which ceased to be used
15 for the qualified use, within the meaning of Section
16 2032A(c) (1) of the Internal Revenue Code.

17 "Trust" includes a trust as defined in Section 2652(b) (1)
18 of the Internal Revenue Code.

19 (Source: P.A. 96-789, eff. 9-8-09; 96-1496, eff. 1-13-11;
20 97-636, eff. 6-1-12.)

21 (35 ILCS 405/3) (from Ch. 120, par. 405A-3)

22 Sec. 3. Illinois estate tax.

23 (a) Imposition of Tax. An Illinois estate tax is imposed
24 on every taxable transfer involving transferred property
25 having a tax situs within the State of Illinois.

1 (b) Amount of tax. On estates of persons dying before
2 January 1, 2003, the amount of the Illinois estate tax shall be
3 the state tax credit, as defined in Section 2 of this Act, with
4 respect to the taxable transfer reduced by the lesser of:

5 (1) the amount of the state tax credit paid to any
6 other state or states; and

7 (2) the amount determined by multiplying the maximum
8 state tax credit allowable with respect to the taxable
9 transfer by the percentage which the gross value of the
10 transferred property not having a tax situs in Illinois
11 bears to the gross value of the total transferred
12 property.

13 (c) On estates of persons dying on or after January 1, 2003
14 and prior to the effective date of this amendatory Act of the
15 103rd General Assembly, the amount of the Illinois estate tax
16 shall be the state tax credit, as defined in Section 2 of this
17 Act, reduced by the amount determined by multiplying the state
18 tax credit with respect to the taxable transfer by the
19 percentage which the gross value of the transferred property
20 not having a tax situs in Illinois bears to the gross value of
21 the total transferred property.

22 (d) No tax shall be imposed under this Act for persons
23 dying on or after the effective date of this amendatory Act of
24 the 103rd General Assembly.

25 (Source: P.A. 93-30, eff. 6-20-03; 94-419, eff. 8-2-05.)

1 (35 ILCS 405/4) (from Ch. 120, par. 405A-4)

2 Sec. 4. Illinois generation-skipping transfer tax.

3 (a) Imposition of tax. An Illinois generation-skipping
4 transfer tax is imposed on every taxable transfer resulting in
5 federal generation-skipping transfer tax involving transferred
6 property having a tax situs within the State of Illinois.

7 (b) Amount of tax. The amount of the Illinois
8 generation-skipping transfer tax shall be the maximum state
9 tax credit allowable with respect to the taxable transfer,
10 reduced by the lesser of:

11 (1) the amount of the state tax credit paid to any
12 other state or states; and

13 (2) the amount determined by multiplying the maximum
14 state tax credit allowable with respect to the taxable
15 transfer by the percentage which the gross value of the
16 transferred property not having a tax situs in Illinois
17 bears to the gross value of the total transferred
18 property.

19 (c) No tax shall be imposed under this Act for transfers
20 occurring on or after the effective date of this amendatory
21 Act of the 103rd General Assembly.

22 (Source: P.A. 86-737.)